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No. 104

WILHELM ENGELBERT

FEBRUARY 19 (legislative day, JANUARY 29), 1951.—Ordered to be printed

Mr. McCARRAN, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 181]

The Committee on the Judiciary, to which was referred the bill (S. 181) for the relief of Wilhelm Engelbert, having considered the same, report favorably thereon with an amendment and recommend that the bill, as amended, do pass.

AMENDMENT

Strike sections 2 and 3 of the bill.

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to cancel the outstanding deportation proceedings in the case of Wilhelm Engelbert and to provide that he shall not again be subject to deportation by reason of the same facts on which the present proceedings are based.

STATEMENT OF FACTS

The beneficiary of the bill is a 45-year-old native and citizen of Germany who last entered the United States on December 31, 1926, as a seaman and he has remained in the United States since that time. He is a former member of the National Socialist Labor Party and was interned as an alien enemy during the Second World War. He is married to a naturalized United States citizen and is presently employed in a restaurant in New York.

A letter dated September 1, 1949, to the chairman of the Senate Committee on the Judiciary from the Assistant to the Attorney

General with reference to S. 560, which was a bill introduced in the Eighty-first Congress for the relief of the same alien, reads as follows:

DEPARTMENT OF JUSTICE, OFFICE OF
THE ASSISTANT TO THE ATTORNEY GENERAL,
Washington 25, September 1, 1949.

HON. PAT McCARRAN,
Chairman, Committee on the Judiciary,
United States Senate, Washington, D. C.

MY DEAR SENATOR: This is in response to your request for the views of the Department of Justice relative to the bill (S. 560) for the relief of Wilhelm Engelbert, an alien.

The bill would direct the Attorney General to cancel deportation proceedings against Wilhelm Engelbert and would provide that he shall not again be subject to deportation by reason of the same facts. It would also provide that he shall be considered as having been lawfully admitted to the United States for permanent residence as of December 31, 1926, on payment of the required visa fee and head tax, and, further, that the Secretary of State shall instruct the quota-control officer to deduct one number from the nonpreference category of the appropriate immigration quota.

The files of the Immigration and Naturalization Service of this Department disclose that Wilhelm Engelbert, also known as Willy Engelbert, is a native and citizen of Germany, having been born in Dortmund, Westphalia, on July 27, 1905. He entered the United States at the port of New York on December 31, 1926, as a member of the crew of the steamship *Resolute*, which he deserted, intending to remain permanently in this country. He had never before shipped as a seaman and paid 1,000 marks to obtain the berth. A warrant for his deportation to Germany, issued August 18, 1943, on the ground that at the time of his entry he was not in possession of an unexpired immigration visa is presently outstanding, while he remains at large under a \$1,000 bond, pending consideration of this bill.

The files further reflect that prior to 1939 the alien was a member of the National Socialist Labor Party, paying dues to the German consul. He also became a member of the Reichsdeutsche Vereinigung, registered with the German consul for service in the German Army, invested in Rueckwanderer Marks, and declared his unwillingness to serve in the United States Army against Germany. He claimed that he joined the Nazi Party because he had been told it would make things easier for him when he returned to Germany, which he planned to do, in order to visit his aged mother and also to make arrangements to return to the United States legally. In regard to his investment in German marks he claimed that he sent money over to Germany through the Chase National Bank in order that he would have it to live on while he was waiting for his papers to clear. On May 27, 1942, he was taken into custody by the Immigration and Naturalization Service as being potentially dangerous to the public peace and safety of the United States. An Alien Enemy Hearing Board recommended that he be interned, and the Attorney General so ordered on June 17, 1942. At his request, and that of his wife, a German-born resident of the United States, she was subsequently interned with him. While he was interned he sought repatriation to Germany, but following VE-day in 1945, he withdrew this application and sought to become a lawful permanent resident of this country.

On April 3, 1946, the Attorney General found him to be an alien enemy "dangerous to the public peace and safety of the United States because he had adhered to a government with which the United States is at war or to the principle thereof." He was ordered to depart from the United States within 30 days after notification and, failing departure, to be removed to Germany. The alien sued out a writ of habeas corpus in the United States District Court for the Southern District of New York, seeking release from the custody of the Immigration Service, but this writ was dismissed by the court on September 23, 1946.

On July 1, 1948, the Attorney General ordered his release from alien enemy proceedings, but the warrant for his deportation was still outstanding. On December 15, 1948, the Board of Immigration Appeals considered his motion to reconsider the deportation order, and his petition to reopen the hearing in deportation proceedings to afford him an opportunity to make further application for discretionary relief. The Board denied his motion and petition.

It further appears that the alien's wife, who came to this country in 1923, and whom he married in 1929, became a naturalized citizen on June 20, 1949. She has been in delicate health and has received medical and surgical care over a period of years. They have no children. From 1937 until February 1942 the alien was

employed in the kitchen of Lahiff's Tavern in New York City. From February 1942 until his apprehension as an enemy alien he was employed by Janssen's Graybar Restaurant in New York, where he is presently reemployed. Prior to entering the United States he had been employed in Germany as a butcher. He is described by his present employers as a good steady worker, and all of the persons interviewed spoke favorably of his moral character.

Upon a review of all the circumstances in this case, it does not appear that the alien is entitled to the relief sought.

Accordingly, this Department is unable to recommend enactment of the measure.

Yours sincerely,

PEYTON FORD,
The Assistant to the Attorney General.

The beneficiary of the bill has submitted to the chairman of the Senate Committee on the Judiciary the following information in connection with the bill:

Re private bill S. 560 for the relief of Wilhelm Engelbert. Memorandum in support of application for further consideration of bill.

Hon. PAT McCARRAN,
*Chairman, Committee on the Judiciary,
United States Senate, Washington, D. C.*

DEAR SIR: When the above bill was considered by your honorable Senate Subcommittee on Immigration and Naturalization, only a letter from the Attorney General's office, dated September 1, 1949, was in the files and before your honorable body. Consequently, the bill was postponed indefinitely in want of any defense, as the undersigned was informed by Mr. Aron in Senator Langer's office on May 23, last.

The undersigned had been under the impression right along that my attorney George G. Shiya, 115 Broadway, New York, N. Y., had mailed you during January or February 1949 my sworn statement, fully explaining my case. As I now know to the contrary, I beg to submit the following refutation of the Attorney General's contention for your kind consideration:

Immediately after my marriage in 1939 I desired to make a trip to Germany to apply there for a visa to be able to enter the United States legally.

I bought rueckwandernmarks through the Chase National Bank to support my aged mother in Germany and to have something to live on, while waiting for my visa.

I made application for membership in the NSDAP in Germany, as I was told by friends who had gone to Germany before to also legalize their entry into the United States—that I would encounter difficulties during my stay in Germany without party membership.

However, I was only a probationary and never a full-fledged party member.

My membership is the purely social Reichsdeutsche Vereinigung here was totally inconsequential.

Being illegally in the United States and still a German national at the outbreak of the war between Germany and Poland in 1939, I had to register with the German consul, as otherwise I would never have been able to return to Germany to legalize my entry into the United States, as I would have been classified as a deserter.

I complied with all registration laws for alien enemies, including my draft board. I submitted to legal physical examination and only refused to serve in the United States Army after I had become interned during the second half of 1942.

My wife, being in ill health and without support, joined me voluntarily at the internment camp in Texas, where she was confined to the hospital for 7 months. She was sent home to receive medical attention in New York hospitals.

I never received a fair hearing and was never represented by counsel during the so-called hearings before the Alien Enemy Control Board or the Immigration and Naturalization authorities and the denials of my application for preexamination and voluntary departure has been arbitrary and constitutes an abuse of discretion on part of the official in charge.

I was always told by the different internment camp officials that, being illegally in this country, I had to go back to Germany, and Inspector Huehnfeld of the Immigration and Naturalization Service gave me to understand that during the war I might be interned in Canada, if I applied for preexamination and reentry via that country. I was only informed correctly as to my status, when brought back

to Ellis Island in October 1945. And then they denied my application for pre-examination and reentry via Canada.

I was released on July 1, 1948, by the Department of Justice from the alien enemy charge as no longer dangerous to the peace and safety of the United States, thereby leaving only the illegal-entry charge pending against me.

Consequently, the Board of Immigration Appeals was wrong in still holding on December 15, 1948, the enemy alien charge against me and denying me permission to reopen the hearing in deportation proceedings to afford me an opportunity to make further application for discretionary relief, such as preexamination and reentry via Canada.

Even Edward J. Ennis, former Chief of the Enemy Alien Control Board, now contends that the time has come for a careful review of the security-risk statute which now is being invoked with greater severity and ruthlessness by the immigration officials in peacetime than it was in war.

I have to support my ailing wife, a United States citizen, and my eventual deportation to Germany—after an exemplary life during the 24 years I have been in this country—would constitute an intolerable hardship for her and me.

I have been steadily employed and am now working for the same employer I have been working for before my internment. Consequently, I never will become a public charge.

Mr. Aron informed me in Senator Langer's office that due to my marriage to an American citizen, I am eligible to an adjustment of my status under section 19 (c) (1) of the Immigration Act of 1917 as amended.

I trust that above reply to the Attorney General's letter will dispose in toto of his opposition to enactment of the relief prayed for.

I therefore ask to kindly act favorably on the bill, S. 560, introduced by Senator Langer on my behalf.

Respectfully submitted.

WILHELM ENGELBERT.

Plea seconded by:

EMILIE ENGELBERT,
United States Citizen.

The bill as originally introduced not only provided for cancellation of the outstanding deportation proceedings but also provided that the beneficiary of the bill be granted the status of permanent residence in the United States. The committee is of the opinion that the cancellation of the outstanding deportation proceedings is sufficient relief and does not believe that granting the status of permanent residence in the United States to the beneficiary is warranted.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (S. 181), as amended, should be enacted.

